

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

JOSEPH P. CARSON,
 Petitioner,

v.

UNITED STATES DEPARTMENT OF JUSTICE,
 Respondent.

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**No. 3:10-CV-56
(Phillips/Shirley)**

MEMORANDUM AND ORDER

On October 17, 2011, the Honorable C. Clifford Shirley, United States Magistrate Judge, filed an 4-page Report and Recommendation (R&R) [Doc. 44] in which he recommended that plaintiff's motion for litigation costs be denied.

This matter is presently before the court on plaintiff's objections to the R&R [Doc. 46]. As required by 28 U.S.C. § 636(b)(1), the court has now undertaken a *de novo* review of those portions of the R&R to which plaintiff objects. After doing so, the court readily concludes that Magistrate Judge Shirley has thoroughly and correctly analyzed the legal issues presented in plaintiff's motion for litigation costs. Thus, any further comment by the court is unnecessary and would be repetitive. In sum, the court finds that plaintiff has failed to show that he "substantially prevailed," that is, he has not received a judicial order, an enforceable written agreement or consent decree in his favor. Nor has plaintiff demonstrated a public benefit derived from the case.

Accordingly, plaintiff's objections [Doc. 46] are hereby **OVERRULED** in their entirety whereby the R&R [Doc. 44] is **ACCEPTED IN WHOLE**. Plaintiff's motion for litigation costs [Doc. 32] is **DENIED**.

Plaintiff's motion to consolidate cases [Doc. 45] is **DENIED AS MOOT**.

The defendant's motion for permission to file a sur-reply [Doc. 42] is also **DENIED AS MOOT**.

ENTER:

s/ Thomas W. Phillips
United States District Judge